

**REMARKS**

This amendment responds to the Office Action dated September 5, 2008 in which the Examiner rejected claim 6 under 35 U.S.C. §101 and rejected claims 1-6 under 35 U.S.C. § 103.

As indicated above, minor informalities in the Abstract and Specification have been amended. Applicant respectfully requests the Examiner approves the corrections.

Applicant would like to thank the Examiner for acknowledgement of the priority application. However, Applicant believes that box 12a<sub>3</sub> should be indicated rather than box 12a<sub>1</sub> on PTOL-326. Applicant respectfully requests the Examiner provides a corrected PTOL-326.

As indicated above, claim 6 has been amended to be directed to statutory subject matter. Therefore, Applicant respectfully requests the Examiner withdraws the rejection to claim 6 under 35 U.S.C. § 101.

As indicated above, claims 1, 5 and 6 have been amended in order to make explicit what is implicit in the claims. The amendment is unrelated to a statutory requirement for patentability.

Claim 1 claims a recording apparatus, claim 5 claims a recording method and claim 6 claims a computer-readable medium encoded with a program. The apparatus, method and program include generating determination data each time a recorded unit is recorded in a recording medium based on management data. The determination data is recorded in the recording medium. A type of recording apparatus having recorded the last recorded unit is determined by comparing the determination data to the management data. A management unit is switched based upon a result of the determination.

By determining a type of recording apparatus that recorded a last recorded unit by comparing determination data to management data as claimed in claims 1, 5 and 6, the claimed

invention provides a recording apparatus, method and program which enables management of recorded content even when data is recorded on a recording medium with devices having different management units. The prior art does not show, teach, or suggest the invention as claimed in claims 1 and 5-6.

Claims 1-6 were rejected under 35 U.S.C. § 103 as being unpatentable over *Isobe, et al.* (U.S. Publication No. 2003/0152369) and *Kori, et al.* (U.S. Patent No. 5,852,528).

*Isobe, et al.* appears to disclose a recording medium drive processing unit 404 writes coded information as an AV stream to a recording medium 201 [0038]. Management information processing unit 403 generates intermediate management information for managing recorded AV streams. The recording medium drive processing unit 404 records this intermediate management information on the recording medium 201. The recording is performed so that information recorded from a recording start instruction to a recording stop instruction can be managed as one chapter [0043].

Thus, *Isobe, et al.* merely discloses recording management information on a recording medium. Nothing in *Isobe, et al.* shows, teaches or suggests determining a type of recording apparatus having recorded a last recorded unit by comparing determination data to management data as claimed in claims 1, 5 and 6. Rather, *Isobe, et al.* merely discloses recording management information onto a recording medium.

*Kori, et al.* appears to disclose determining whether or not date information of immediately-preceding program and date information of a program that precedes the immediately-preceding program agree with each other. If the information agrees, the immediately-preceding program and the program preceding it are edited (column 5, lines 23-32).

When a new recording is started with the same date, a new recording starting track number is memorized in a new program packet 4 (column 5, lines 42-45).

Thus, *Kori, et al.* merely discloses determining whether a program is edited based upon dates. Nothing in *Kori, et al.* shows, teaches or suggests determining a type of recording apparatus based upon comparison of determination data and management data as claimed in claims 1, 5 and 6. Rather, *Kori, et al.* only discloses comparing date information to determine whether editing is to occur.

Furthermore, *Kori, et al.* merely discloses that when a new recording is started with a same date, a new recording starting track number is stored in a packet. Nothing in *Kori, et al.* shows, teaches or suggests determining a type of recording apparatus based upon comparison of determination data and management data as claimed in claims 1 and 5-6. Rather, *Kori, et al.* only discloses storing a starting track number when a new recording is started.

A combination of *Isobe, et al.* and *Kori, et al.* would merely suggest recording management information onto a disc as taught by *Isobe, et al.* and to record a new track number when a new recording is started as taught by *Kori, et al.* and to determine whether a program is to be edited based upon date information as taught by *Kori, et al.* Thus, nothing in the combination of the references shows, teaches or suggests determining a type of recording apparatus based upon comparing determination data and management data as claimed in claims 1, 5 and 6. Therefore, Applicant respectfully requests the Examiner withdraws the rejection to claims 1, 5 and 6 under 35 U.S.C. § 103.

Claims 2-4 depend from claim 1 and recite additional features. Applicant respectfully submits that claim 2-4 would not have been obvious within the meaning of 35 U.S.C. § 103 over

*Isobe, et al.* and *Kori, et al.* at least for the reasons as set forth above. Therefore, Applicant respectfully requests the Examiner withdraws the rejection to claims 2-4 under 35 U.S.C. § 103.

New claims 7-9 have been added and recite additional features. Applicant respectfully submits that these claims are also in condition for allowance.

The prior art of record, which is not relied upon, is acknowledged. The references taken singularly or in combination do not anticipate or make obvious the claimed invention.

Thus, it now appears that the application is in condition for a reconsideration and allowance. Reconsideration and allowance at an early date are respectfully requested.

**CONCLUSION**

If for any reason the Examiner feels that the application is not now in condition for allowance, the Examiner is requested to contact, by telephone, the Applicant's undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this case.

In the event that this paper is not timely filed within the currently set shortened statutory period, Applicant respectfully petitions for an appropriate extension of time. The fees for such extension of time may be charged to Deposit Account No. 50-0320.

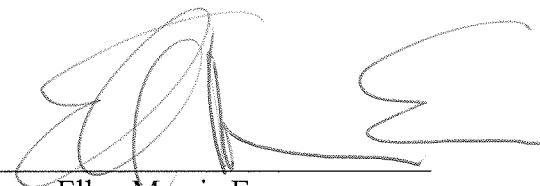
In the event that any additional fees are due with this paper, please charge to our Deposit Account No. 50-0320.

Respectfully submitted,

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Attorneys for Applicant

Date: November 10, 2008

By

A handwritten signature in black ink, appearing to read 'Ellen Marcie Emas', written over a horizontal line.

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